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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,674	11/21/2001	Gordon L. Woods	2404-105	1175

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EXAMINER

JIANG, SHAOJIA A

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 05/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,674

Applicant(s)

WOODS, GORDON L.

Examiner

Shaojia A. Jiang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) 1-19, 26-60, 62 and 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-25 and 61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other:

DETAILED ACTION

This application is a continuation in part of 09/610538 Which claims priority from Provisional Application 60/142926.

Election/Restrictions

Applicant's election without traverse of the invention of the invention of Group IV, claims 20-25 and 61, in Paper No. 4 submitted April 29, 2002 is acknowledged.

Claims 1-19, 26-60, and 62-63 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-25 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waalkes (BC and BF, PTO-1449 submitted April 29, 2002).

Waalkes (BF) discloses that cadmium is useful in a pharmaceutical composition and in the prevention or substantially reducing NDEA-induced tumor formation in the

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mouse liver or lung therein. Waalkes also discloses the administration of cadmium (CdCl_2 , oral or i.v.) in an amount of $16 \mu\text{mol/kg}$. See BF: abstract, pages 1027-1029.

Waalkes (BC) discloses that cadmium is useful in a pharmaceutical composition and in inhibiting NDEA-induced tumor formation in the mouse liver or lung therein. Waalkes also discloses the administration of cadmium (CdCl_2 , injection) in an amount of 1000 ppm. See BC: abstract and the entire article, especially pages 1658-1660.

The prior art does not expressly disclose the employment of cadmium in a methods of balancing the concentration of cadmium in body fluids and tissues of a human suffering from unbalanced levels of cadmium in his body fluid and tissues and for correcting a cadmium deficiency in a human suffering cadmium deficiency.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ cadmium in a methods of balancing the concentration of cadmium in body fluids and tissues of a human suffering from unbalanced levels of cadmium in his body fluid and tissues and for correcting a cadmium deficiency in a human suffering therefrom.

One having ordinary skill in the art at the time the invention was made would have been motivated to employ cadmium in a methods of balancing the concentration of cadmium in body fluids and tissues of a human suffering from unbalanced levels of cadmium in his body fluid and tissues and for correcting a cadmium deficiency in a human suffering therefrom since cadmium is known to be useful in a pharmaceutical composition to be administered to a mammal and in the prevention or substantially reducing NDEA-induced tumor formation in the mouse liver or lung according to

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Waalkes. Therefore, one of ordinary skill in the art would have reasonably expected that the administration of cadmium would have a beneficial therapeutic effect on balancing the concentration of cadmium in body fluids and tissues of a human suffering from unbalanced levels of cadmium in his body fluid and tissues, and correcting a cadmium deficiency in a human suffering cadmium deficiency.

Thus the claimed invention as a whole is clearly prima facie obvious over the combined teachings of the prior art.


In view of the rejections to the pending claims set forth above, no claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Jiang, whose telephone number is (703) 305-1008. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minna Moezie, J.D., can be reached on (703) 308-4612. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1235.

Shaojia A. Jiang, Ph.D.
Patent Examiner, AU 1617
May 14, 2002


RUSSELL TRAVERS
PRIMARY EXAMINER
GROUP 1200